



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: May 10, 2006 REPORT NO. 06-055

ATTENTION: Council President and City Council
Docket of May 16, 2006

SUBJECT: Amendment to Pedicab Regulations and Transfer of Program
to MTS

REFERENCES: Manager's Report 05-115 dated May 11, 2005
Manager's Report 03-076 dated April 24, 2003
Manager's Report 02-142 dated July 11, 2002
Manager's Report 01-011 dated January 18, 2001
Manager's Report 99-53 dated March 19, 1999
Manager's Report 99-24 dated February 10, 1999
Manager's Report 98-225 dated November 13, 1998

SUMMARY

Issue – What actions should be taken to improve and strengthen the regulation of pedicabs in the City of San Diego?

Staff Recommendations – 1) Transfer the authority for regulating pedicabs to the Metropolitan Transit System (MTS);
2) Direct the City Attorney to amend the Pedicab Regulation Ordinance (O-2000-19) as specified in recommendations A through I in this report.

Other Recommendations – On May 18, 2005, the Public Safety and Neighborhood Services Committee voted 4-0 to approve Manager's Recommendations A through F (recommendations G through I were developed subsequent to the PS&NS Committee action).

Fiscal Impact – Permit fees for FY2006 are estimated to be \$15,000 and cover costs associated with the current regulatory program. If the program is transferred to MTS, these fees would be collected by MTS rather than the City. If the

program remains with the City and the level of regulation is increased to that of MTS's taxicab regulation, additional staff will be required, at increased cost. This additional cost would be recoverable through increased fees.

BACKGROUND

The City of San Diego began regulating the pedicab industry on January 1, 2000. The initial regulatory program was developed by a team which included representatives from Transportation Engineering, the Police Department, the City Attorney's office, and the pedicab industry. Pedicabs must have certain safety devices and must be insured. Drivers must be at least 18 years of age, possess a driver's license valid in California, and have a business tax certificate from the City of San Diego. Pedicabs are allowed to operate throughout the city, but at this time are most heavily concentrated in the Gaslamp Quarter and the rest of downtown, the Embarcadero (Port District), and in Balboa Park.

Pedicabs and their operators are licensed separately by the Transportation Engineering Division of Engineering & Capital Projects Department, at an annual fee of \$25 for each vehicle or operator permit. Special permits from the Park & Recreation Department are required for pedicabs to operate within Balboa Park, and additional operating restrictions are in effect within the park. Permit fees are \$30 per month or \$15 for special events. The Harbor Police also issue permits which allow pedicabs to operate on Port District property, including the Embarcadero, for a fee of \$125 per quarter or \$500 per year.

The number of vehicle permits issued by the City has doubled in the four years since the regulatory program has been in effect. Nearly 100 vehicle permits were issued in 2000, whereas more than 200 vehicle permits were issued in 2004. As Centre City has continued to develop and the number of pedicabs has increased, so has the number and types of issues related to the operation of pedicabs.

DISCUSSION

Staff from the Police Department's Central Division and from the Transportation Engineering Division held a series of meetings to identify and resolve specific areas of concern while preserving pedicabs as an important downtown transportation service. Participants in these meetings included: the Police Department's Downtown Bike Team; owners of several major pedicab companies; representatives from the Centre City Development Corporation (CCDC), the Convention Center, the Port District Tenants' Association, downtown residents and business owners; staff from Balboa Park, the Port District, and the Harbor Police; and pedicab operators.

At each meeting, participants were allowed to air complaints and concerns, and were also encouraged to make suggestions for improving both the regulatory process and the pedicab industry. The concerns that were raised by the various stakeholders covered a range of issues but were remarkably consistent. The following are sentiments expressed by participants in the meetings:

- There are currently too many jurisdictions regulating pedicabs, with different operating rules, fees, and requirements
- There are an excessive number of pedicabs, and the market is saturated
- There are too many pedicab drivers who are rude and/or behave in an unsafe or reckless manner, with no means for notifying pedicab company owners of who these drivers are

The stakeholders agreed that a major step toward resolving these issues would be to have pedicabs regulated by a single agency. This would streamline the permit process, eliminate duplication of effort, consolidate fees, standardize permits, and improve communication between regulators, owners, and operators. It was generally agreed that the most relevant model for pedicab regulation was that used by MTS to regulate taxicabs, low-speed electric vehicles, and other vehicles for hire.

Staff met with MTS's taxicab administrator to discuss how taxi-style regulations could be applied to pedicabs and whether such regulations could be more readily and/or efficiently administered by MTS. It was determined that MTS's taxicab regulations are far more stringent than the City's regulations for pedicabs. Furthermore, many of MTS's taxi regulation activities are labor-intensive and would require an increased level of staffing to perform.

Recommended Immediate Amendments to Existing Pedicab Regulations

Some changes to pedicab regulation could be accomplished in-house at the City in anticipation of a transfer of the regulatory program to MTS. Staff and stakeholders believe that implementing these immediate changes will begin to improve pedicab service and the industry's public image. These short-term or interim amendments would have little impact on staffing levels and would require only a minor increase in pedicab fees to cover those impacts. Staff is therefore recommending that the Pedicab Regulation Ordinance be amended as follows:

A) Require a valid California driver's license to operate a pedicab – Currently, the ordinance requires the possession of any valid driver's license. Pedicab operators and the Police Department have reported that operators with out-of-state or out-of-country licenses are a chronic behavioral problem, and are frequently scofflaws. Requiring a California driver's license will help in assuring that pedicab operators are more familiar with the laws of the state. Furthermore, it is easier for law enforcement personnel to determine the status of a California driver's license (valid, suspended, conditional, revoked) than an out-of-state license, and take appropriate action.

B) Require that all pedicab owners and operators sign a code of conduct/code of practice – A signed Code of Conduct for pedicab operators and Code of Practice for pedicab owners would put pedicab operators and owners on notice to behaviors which are either illegal or damaging to the public image of the pedicab

industry. It will also assist owners of pedicab companies in taking disciplinary actions against employees who demonstrate chronic inappropriate behavior.

C) Standardize the size, font, and location of fare information cards – The current ordinance requires that pedicab fare information "be posted in a location that is clearly visible to the passenger(s)." The Police Department has responded to several incidents in which this requirement was disregarded or ignored, resulting in consumer complaints of overcharging. Staff is therefore recommending that all fare schedule information be printed in black or red on a white background no smaller than 8 inches by 10 inches, using Universal font with a minimum 20-point font size, and that this information be attached to the exterior of the pedicab.

D) Require seatbelts for all passengers – Seatbelts are not currently required equipment on pedicabs, but many owners have taken it upon them selves to install them. And despite current requirements that restrict the number of passengers to the number of available seats, overcrowding and lap-sitting are still prevalent. The recommended seat belt requirement would improve safety and passively enforce the restrictions on the number of passengers.

E) Allowing the Police Department to impound pedicabs under certain conditions – The Police Department has had occasion to arrest pedicab operators for violations of the vehicle code, including driving while under the influence of alcohol and/or drugs, and have encountered operators who do not have a valid driver's license. At these times it is inappropriate for the operator to continue transporting passengers, but there is no procedure in place for the disposition of the pedicab itself. Allowing the Police Department to impound the vehicle will prevent possible theft of the vehicle and will also require the vehicle's owner to claim the vehicle and incur any fines or fees associated with the impound.

F) Repeal the section of the ordinance requiring rear-view mirrors on pedicabs – Pedicab operators have stated that rear-view mirrors are rarely used; operators look over their shoulders, in the same manner as standard bicyclists. The Police Department concurs that rear-view mirrors are not needed for safe operation of pedicabs, and that this section of the ordinance should be repealed.

The Public Safety and Neighborhood Services Committee approved these recommendations on May 18, 2005. Subsequent to that meeting and vote, several other issues which could be easily resolved were brought to the attention of staff and are being presented for approval and implementation. These are:

G) Prohibit pedicabs on the Martin Luther King Jr Promenade – This promenade runs parallel to Harbor Drive from PETCO Park to Market Street, and is intended for pedestrians. Users of the Promenade have reported that pedicabs frequently force pedestrians off the paved walkway or drive on the landscaping to avoid

pedestrians. It is therefore recommended that pedicabs be prohibited on the Martin Luther King Jr Promenade. A parallel bicycle path is adjacent to the Promenade.

H) Define a process for the denial, suspension, or revocation of pedicab operator permits and an appeals process – As currently written, the Pedicab Regulation Ordinance contains provisions for denying or revoking a pedicab operator's permit based on criminal activity (sex offenses, certain felonies, etc). On several occasions, police officers have observed pedicab operators behaving in a reckless manner which in the officer's opinion were serious enough to warrant a summary revocation of the operator's permit. However, there is no provision for summary revocation, nor is there an appeals process to challenge a revocation or suspension of a permit. Staff is recommending that a process for revocation, suspension, and denial of permits, and an appeals process, be included in the Pedicab Regulation Ordinance.

I) Unique, nontransferable vehicle identification numbers – Currently, vehicle identification numbers are on each vehicle's operating permit decal, but this number varies from year to year and is of a size that can be unreadable from even a short distance away. Persons wishing to file complaints about pedicab operation have reported that it is difficult at best to read the vehicle's permit number. Staff is recommending that each pedicab be assigned an identification number which would be painted on the vehicle in a size large enough to be read from a distance. This number would remain with the vehicle as long as it is in use, and would not be reused once the vehicle has been retired. In the event of a complaint, this number could be used to link the vehicle to its owner or operator. This would also assist in preventing companies from buying up permits in advance for vehicles which are not in their current inventory.

The Police Department – primarily the Downtown Bike Team – will continue to perform on-street enforcement, including enforcement of traffic and safety regulations and of vehicles which are not in conformance with the pedicab regulation ordinance.

Current MTS Standards/Requirements for Taxicabs

As previously noted, MTS's taxicab regulations are more stringent than the City's pedicab regulations. While the immediate changes to the City's regulations will result in some improvements to the industry, the additional regulations imposed by MTS would have an even greater impact on improving the pedicab industry. These additional regulations include:

1. *Background checks* – Pedicab owners and operators would undergo background checks through an existing partnership between MTS and the Sheriff's Department. Persons with criminal backgrounds unsuitable for the operation of a vehicle for hire would not be issued a permit. Background checks are not currently performed by the City.

2. *Trip sheets* – Pedicab operators would be required to log each trip, from point and time of origin to destination and time of arrival. Trip sheets are useful tools for tracking complaints and other customer service requests, such as lost and found. This is not a current City requirement.
3. *Testing* – Pedicab operators would be required to pass a test indicating knowledge of the rules of the road, appropriate behaviors, and other aspects of operation. This is not currently performed by the City.
4. *Insurance review* – Pedicab owners would be more carefully scrutinized for their insurance coverage and the coverage period. Currently, insurance information must be provided at the time of application for a permit, but no follow-up is performed to assure that the policy has been reissued upon expiration, or whether a policy has been canceled.
5. *Leasing of vehicles* – Operators who lease vehicles from pedicab fleet owners would be required to sign a long-term agreement with the company. Currently, drivers can move from company to company on a daily basis, which makes it difficult for owners to identify – and refuse to lease to – drivers with bad operating or behavioral records. Under this provision, limitations are also set on the number of companies an operator may work for, and company owners are required to notify the regulating agency whenever an employee leaves the company.
6. *Locations of pedicab stands* – Specific locations would be identified for pedicabs to wait between trips or for passenger pickup. There are currently no such locations, and pedicabs tend to cluster in inappropriate locations. Police Department staff have identified several possible locations for pedicab stands which will not impact curbside parking in Centre City, and are in the process of reviewing these locations with Centre City stakeholders.
7. *Uniform vehicle color schemes for each company* – All vehicles in each pedicab company’s fleet would use the same color or color combination/pattern. The uniformity of appearance would aid in identifying ownership in the event of a complaint, tracking lost and found items, and route tracing. This is not a current City requirement.
8. *Dress codes* – Pedicab operators would be required to meet minimum appearance standards, including cleanliness. Similar standards are currently in effect for taxicab drivers. This is not a current City requirement.

Implementation of these new regulations would improve both the quality of service provided by pedicabs as well as the industry’s image. Background checks, testing, long-term leasing agreements, unique vehicle identification numbers, and centralized record-keeping will help to weed out the “bad apples” who the stakeholders identified as the

basis for the majority of complaints against the industry as a whole. Communication among law enforcement, the regulatory agency, and the pedicab company owners will be greatly improved. Assigning all pedicab administration to a single agency would eliminate duplication of effort, provide centralized record-keeping, and create a "one-stop shop" for obtaining permits.

The proposed regulations will require a significant increase in staffing related to administration, enforcement, vehicle inspection, licensing and testing of drivers, record-keeping, and disciplinary action. If these more stringent regulations were to be administered by City staff, an additional position in the Engineering & Capital Projects Department would need to be added to the department's budget.

Staff from the Police Department, Engineering & Capital Projects, Park & Recreation, the Port District, and Harbor Police believe that MTS has the experience and expertise to assume responsibility for administering pedicab regulation. Therefore, it is recommended that this program be transferred to MTS.

CONCLUSION

Pedicabs fill a niche in the transportation market, but problems have been escalating as Centre City and the pedicab industry both grow. Changes in pedicab regulation are both needed and desired by the Police Department, downtown residents and businesses, and the pedicab industry. Consolidating pedicab regulations under one agency's jurisdiction will also provide a "one-stop shop" for the issuance of permits, tracking of insurance coverage, providing vehicle inspections, and screening background checks. Because these tasks are labor-intensive and/or require specialized skills, they would require the hiring of additional City staff if kept in-house. The increased costs would be recoverable through increased fees.

Staff is therefore recommending the following actions:

- Approve the nine proposed amendments (A through I) recommended for immediate implementation (valid California driver's license; code of conduct/practice; standardized fare info cards; seatbelts; impounding; rear-view mirror requirement repeal; Martin Luther King Promenade prohibition; revocation and appeal process; unique identification numbers)
- Recommend that the pedicab regulation program be transferred to MTS

ALTERNATIVES

- 1) Do not transfer pedicab regulation to MTS, but implement the full complement of proposed regulatory changes (A through I *and* 1 through 8). This is not recommended, as the proposed regulatory changes increase the scope of regulation to a degree beyond the expertise and experience of current City staff, but which is available at MTS.

- 2) Continue the current pedicab regulation program with no changes. This is not recommended, due to the number of and types of concerns raised by the public and the stakeholders.

Respectfully submitted:

Approved by:

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HAAS/BOEKAMP/DZ